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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,630	02/10/2004	Kenneth Conner	4131-89327	1320
24628	7590	04/07/2006		
WELSH & KATZ, LTD 120 S RIVERSIDE PLAZA 22ND FLOOR CHICAGO, IL 60606			EXAMINER CLEMENT, MICHELLE RENEE	
			ART UNIT	PAPER NUMBER
			3641	

DATE MAILED: 04/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/775,630		CONNER, KENNETH	
	Examiner		Art Unit	
	Michelle (Shelley) Clement		3641	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) 4,5 and 10-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 6-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of species a in the reply filed on 1/12/06 is acknowledged. The traversal is on the ground(s) that a) the inventions are not independent and b) there is not a serious burden on the examiner. It is noted that applicant relies on MPEP 803.01, which is related to restrictions between separate inventions, for restriction according to species applicant should refer to MPEP 808.01. The traversal is on the ground(s) that the examiner has not fulfilled the requirement as set forth in MPEP 803. This is not found persuasive because applicant's argument that the examiner must show serious burden as set forth in MPEP 803 is inappropriate for a species restriction. MPEP 802.02 defines three separate types of restriction requirements; distinct inventions, independent inventions, and election of species. The requirements for demonstrating a distinct or independent invention are not required for an election of species. The requirements for making an election of species are found in MPEP 808.01(a) and 809.02(a). Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 4, 5 and 10-15 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking

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claim. It is noted that applicant has indicated that claims 1-3 and 6-15 read on the elected species, this does not appear to be the case because claim 10 recites “wherein the spring further comprises **a pair of springs** disposed on opposing sides of the elongated housing outside of the internal chamber”, a feature that is clearly illustrated in species c, the embodiment of Figure 4, and not in species a, the embodiment of Figure 2.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Boudreau (US Patent # 2,396,816). Boudreau discloses an ammunition clip for supplying cartridges to a firearm, the ammunition clip comprising an elongated housing having an internal chamber for holding a plurality of laterally aligned cartridges, the elongated housing having a loading end and an opposing end, a movable carriage disposed within the internal chamber for urging the aligned cartridges towards the loading end, a spring that urges the movable carriage towards the loading end, the spring being disposed completely outside the internal chamber (inasmuch as applicant's spring is disposed outside the internal chamber, the internal chamber is open to the area containing the spring) (Figure 8). The spring being coupled on a first end to the elongated housing and on a second end to the movable carriage and being operable in a direction of spring pressure that is parallel to a longitudinal axis of the longitudinal housing. The spring comprising a coil, compression spring. The elongated housing comprising a longitudinal slot in

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a wall of the elongated housing that accepts a spring follower slide that extends through the slot to engage the movable carriage inside the internal chamber and the spring outside the internal chamber (at references 11). The elongated housing comprises a longitudinal slot in the sidewall that accepts an end of a transverse guide pin disposed in the movable carriage.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Boudreau as applied to claims 1 and 6 above. Boudreau discloses the claimed invention except for the elongated housing comprising a pair of slots. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have two slots in the housing, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

7. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boudreau as applied to claims 1, 6 and 7 above, and further in view of Warner (US Patent # 2,441,735).

Although Boudreau does not expressly disclose the ammunition clip further comprising a secondary spring that connects the spring follower slide to the transverse pin of the movable carriage, Warner does. Warner teaches an ammunition clip having a secondary spring for connecting the spring follower slide to the movable carriage in order to keep the movable carriage in alignment. It would have been obvious to one of ordinary skill in the art at the time

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the invention was made to combine the secondary spring as taught by Warner with the clip as taught by Boudreau. The suggestion/motivation for doing so would have been to obtain an ammunition clip with better alignment. Although Warner teaches the secondary spring comprising a helical spring rather than a leaf spring, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a leaf spring, since it has been held to be within the general skill of a worker in the art to select a known mechanical element, such as a spring, on the basis of its suitability for the intended use as a matter of obvious design choice, and applicant has not disclosed that a leaf spring is for any particular purpose or solves any stated problem and it appears that the invention would perform equally well with any well known type of spring.

Conclusion


8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ciener (US Patent # 5,461,811).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle (Shelley) Clement whose telephone number is 571.272.6884. The examiner can normally be reached on Monday thru Thursday 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 571.272.6873. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



MICHELLE CLEMENT
PRIMARY EXAMINER